

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
APRIL 4, 2017**

- CALL TO ORDER**
6:00 pm
- A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the South Campus Building, Suite 200, 40 11th Street West, Kalispell, Montana. Board members present were Gina Klempel, Mark Hash, Roger Noble, and Cal Dyck. Ole Netteberg had an excused absence. Erik Mack, Kari Nielson, Rachel Ezell, and Mark Mussman represented the Flathead County Planning & Zoning Office.
- There were 14 people in the audience.
- APPROVAL OF MINUTES**
6:00 pm
- Dyck motioned and Noble seconded to approve the January 3, 2017 minutes as written.
- ELECTION OF OFFICERS**
6:00 pm
- Election of officers postponed until a full Board is present.
- PUBLIC COMMENT**
(Public matters that are within the jurisdiction of the Board 2-3-103 M.C.A)
6:00 pm
- None
- JAMES ANDLER (FZV-17-02)**
6:00 pm
- A request by James Andler for a zoning variance to property within the Peaceful Bay II Zoning District and zoned R-2. The applicant is requesting a variance to Section 7.12.030 Definitions, 'Lot Area-The total horizontal area within the boundary lines of a lot. Where surface utilities or street easements are located within a parcel, *lot area computations shall not include that area contained within the easement except for lots located in SAG-5, SAG-10, AG-20, AG-40, and AG-80 Zoning Districts.* ' The applicant would like to use the gross acreage of the lot instead of the net acreage in order to subdivide the property. The property is located at 12 Bayview Drive.

**STAFF REPORT
(FZV-17-02)
6:01 pm**

Ezell reviewed Staff Report FZV-17-02 for the Board.

**BOARD
QUESTIONS
6:05 pm**

None

**APPLICANT
PRESENTATION
6:05 pm**

Eric Mulcahy-Sands Surveying-2 Village Loop, Kalispell stated he represented the applicant. He stated the applicant felt the application for the variance did meet the criteria. He talked about the easements on the property. Mulcahy stated that there are two homes on the property and if the variance was granted the applicant could split the property so that there would be a home on each lot. He stated that the applicant was looking at this as his retirement and would like to split it with a house on each lot. He was not trying to split it to create more houses on the lot. He stated the applicant could comply with the intent of the zoning regulations, but not by the strict letter of the rule of the zoning regulations.

**BOARD
QUESTIONS
6:10 pm**

Klempel asked if the applicant had current medical bills.

Mulcahy stated that yes he had a degenerative eye disease.

Noble asked if the well on the property provided the water for the main house and what was the sewer status.

Mulcahy stated that it was connected to Lakeside sewer and Andler stated that it had an 80 gpm well.

**PUBLIC
COMMENT
6:11 pm**

None

**STAFF
REBUTTAL
6:11 pm**

None

**APPLICANT
REBUTTAL
6:11 pm**

None

**BOARD
DISCUSSION
6:11 pm**

Hash talked about the letter from the Stanley's which stated that if the Board granted this variance the applicant would be getting a benefit that others do not receive which is one of the criteria that the Board looks at; he also stated he knew that the planning office works hard to try and make the application work for people. But, he had heard that the planning staff had prepared alternate findings why?

Ezell stated that she stood behind the staff report but wanted to have something prepared if the Board voted the other way.

This issue was discussed at length.

Noble asked about the two residences on the property.

Mulcahy stated that there was the main house and the garage with an apartment above it.

Dyck asked if the property was in violation of the zoning with the two residences on it.

Ezell stated that the application did not specify that there were two residences on the property; however, in R2 zoning the applicant would be allowed to have an accessory dwelling unit with an administrative conditional use permit or a guest house as a permitted use.

Dyck stated that even if the easements were evenly dispersed between the properties the applicant would still not have enough square footage to split the property. He did not feel that the rules should be changed.

**MAIN MOTION
TO ADOPT F.O.F.
(FZV-17-02)
6:30 pm**

Klempel made a motion seconded by Dyck to adopt the Findings-of-Fact as written.

**BOARD
DISCUSSION
6:30 pm**

Klempel indicated she sympathized with the applicants but could not support the variance as the review criteria were not met.

Noble stated that the applicant did not meet seven (7) of the criteria.

Hash stated that he did not think the Board could give this applicant a privilege over other people.

**ROLL CALL TO
ADOPT F.O.F.
6:31 pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO DENY
(FZV-17-02)
6:32 pm**

Klempel made a motion seconded by Dyck to accept Staff Report FZV-17-02 as Findings-of-Fact and Deny the Zoning Variance.

**BOARD
DISCUSSION
6:32 pm**

None

**ROLL CALL TO
DENY
6:33 pm**

On a roll call vote the motion passed unanimously.

**BETSY MORISON
(FZV-17-01)
6:33 pm**

A request by Betsy Morrison for a zoning variance to property within the West Valley Zoning District and zoned West Valley. The applicant is requesting a variance to Section 3.34.040(3), "Minimum Yard Requirements" of the Flathead County Zoning Regulations which requires a twenty (20) foot setback from a road easement. The applicant has placed a manufactured home, currently being used as 'caretaker housing,' approximately three (3) feet from the edge of the 60-foot private road easement. The property is located at 141 Viano Lane.

**STAFF REPORT
(FZV-17-01)
6:33 pm**

Nielsen reviewed Staff Report FZV-17-01 for the Board.

**BOARD
QUESTIONS
6:36 pm**

None

**APPLICANT
PRESENTATION
6:36 pm**

Betsy Morrison-141 Viano Lane, Kalispell stated that the mobile home was originally put on the property after a family tragedy. Now, that the family has had time to recover from that they would like to utilize the mobile home as a caretaker facility. She stated her son would be living in it and helping her with the property.

**BOARD
QUESTIONS
6:36 pm**

None

**PUBLIC
COMMENT
6:15 pm**

Nancy Kostman-1326 2nd Street West, Kalispell-was concerned about not being able to develop her property because the applicant encroached on the easement.

Hash stated that the applicant is not encroaching on the easement but was in the setback.

Kostman agreed and stated that she thought the mobile home could have been turned to meet the setbacks.

**BOARD
QUESTIONS
6:40 pm**

None

**STAFF
REBUTTAL
6:41 pm**

Nielsen stated the mobile is not encroaching on the easement at all. The septic concern is addressed with the condition.

**BOARD
QUESTIONS
6:41 pm**

Noble asked if there were topographic concerns.

Nielsen stated yes.

Dyck asked if the parking for the mobile was in the easement.

Nielsen stated that parking was not one of the criteria looked at on a zoning variance. It was something that would need to be addressed and could be addressed with a condition.

Hash asked about the caretaker definition and how it was met.

Nielsen stated that the applicant's son was living there and helping her with the property which met the definition requirements.

**APPLICANT
REBUTTAL
6:44 pm**

None

**BOARD
DISCUSSION
6:44 pm**

Noble asked what the applicant was doing for septic at this time.

Nielsen stated that the septic was hooked up to the main house septic at this time. This was permitted on a temporary basis. The condition of the variance was to get permanent septic approval.

Dyck was concerned about the parking and the septic. He felt that two (2) separate structures would require two (2) separate drain fields. He also wanted to know if the applicant could turn the mobile home and meet the setbacks.

Hash asked about adding a condition on parking.

Mack stated it could read 'provide 2 off street parking spaces in compliance with the zoning regulations'.

There was some discussion on parking.

Dyck stated that if the trailer was rotated it would be more in compliance with the setback.

Morrison stated that she could move the trailer and try to meet the setback requirements.

Noble stated that if the trailer was moved and the setback still could not be met the applicant could then ask for the variance.

**MAIN MOTION
TO TABLE
(FZV-17-01)
7:05 pm**

Noble made a motion seconded by Klempel to table the application FZC-17-01 until the July 11, 2017 meeting.

**BOARD
DISCUSSION
7:06 pm**

None

**BENJAMIN &
LINDSEY
BUSHNELL
(FCU-17-01)
7:06 pm**

A request by Benjamin & Lindsey Bushnell, owners of the Lakeside Dental, for a conditional use permit to allow for the construction and operation of a new clinic and parking lot on property located within the Lakeside Zoning District and zoned *Lakeside*. The subject property is located at 150 Bill Road in Lakeside, MT

**STAFF REPORT
(FCU-17-01)
7:06 pm**

Nielsen reviewed Staff Report FCU-17-01 for the Board.

**BOARD
QUESTIONS
7:08 pm**

None

**APPLICANT
PRESENTATION
7:08 pm**

Robert Smith-A2Z Engineering-138 East Center Street, Kalispell stated he represented the applicant. He stated the clinic has been in business since the 1970's and has been placed on Lakeside water and sewer. He felt the new design would be beneficial and add some off street parking

**BOARD
QUESTIONS
7:10 pm**

None

**PUBLIC
COMMENT
7:10 pm**

None

**STAFF
REBUTTAL
7:10 pm**

None

**APPLICANT
REBUTTAL
7:10 pm**

None

**BOARD
DISCUSSION
7:10 pm**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FCU-17-01)
7:11 pm**

Klempel made a motion seconded by Dyck to adopt the Findings-of-Fact as written.

**BOARD
DISCUSSION
7:11 pm**

None

**ROLL CALL TO
ADOPT F.O.F.
7:11 pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO APPROVE
(FCU-17-01)
7:12 pm**

Klempel made a motion seconded by Dyck to accept Staff Report FCU-17-01 as Findings-of-Fact and Approve the Conditional Use Permit.

**BOARD
DISCUSSION
7:12 pm**

None

**ROLL CALL TO
APPROVE
7:12 pm**

On a roll call vote the motion passed unanimously.

**CALVARY
CHAPEL OF THE
FLATHEAD
(FCU-17-02)
7:12 pm**

A request by Calvary Chapel of the Flathead Valley for a conditional use permit to expand a 'church' on property located within the Highway 93 North Zoning District and zoned *SAG-10 Suburban Agricultural*. The subject property is located at 2395 Whitefish Stage and contains approximately 1.0 acres.

**STAFF REPORT
(FCU-17-02)
7:13 pm**

Mack reviewed Staff Report FCU-17-02 for the Board.

**BOARD
QUESTIONS
7:14 pm**

None

**APPLICANT
PRESENTATION
7:14 pm**

Robert Smith-A2Z Engineering-138 Center Street, Kalispell stated he represented the applicant. The church is successful and full to capacity and is looking to expand. He stated this expansion would be done in phases.

**BOARD
QUESTIONS
7:17 pm**

None

**PUBLIC
COMMENT
7:17 pm**

None

**STAFF
REBUTTAL
7:17 pm**

None

**APPLICANT
REBUTTAL
7:18 pm**

None

**BOARD
DISCUSSION
7:19 pm**

Klempel asked if the building would be all one level.

Smith stated that it was still up in the air but they had applied for the maximum square footage to accommodate split and single level construction.

Smith asked that the condition regarding approach permits be modified to say a new permit if required.

Noble stated he wanted it to state the application shall be submitted to the Montana Department of Transportation and the department could then make that decision as he was very concerned about the traffic impact.

**MAIN MOTION
TO ADOPT F.O.F.
(FCU-17-02)
7:21 pm**

Noble made a motion seconded by Klempel to adopt the Findings-of-Fact as written.

**BOARD
DISCUSSION
7:21 pm**

None

**ROLL CALL TO
ADOPT F.O.F.
7:21 pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO APPROVE
(FCU-17-02)
7:21 pm**

Noble made a motion seconded by Dyck to accept Staff Report FCU-17-02 as Findings-of-Fact and Approve the Conditional Use Permit with the revised condition 11.

**BOARD
DISCUSSION
7:20 pm**

None

**ROLL CALL TO
APPROVE
7:21 pm**

On a roll call vote the motion passed unanimously.

**OLD BUSINESS
7:23 pm**

None

**NEW BUSINESS
7:23 pm**

Hash stated that he would like an affirmative action that requires all application to meet with Montana Department of Transportation.

Mussman stated yes.

**ADJOURNMENT
7:23 pm**

The meeting was adjourned at approximately 7:23 pm on a motion Klempel. The next meeting will be held at 6:00 pm on May 2, 2017.



Mark Hash, Chairman



Danene Thornton, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 5/2 /17